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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/699,145	10/30/2003	Yasushi Enguchi	09656/0200092-US0	1466
7278	7590	04/13/2004		
DARBY & DARBY P.C. P. O. BOX 5257 NEW YORK, NY 10150-5257			EXAMINER BAHTA, ABRAHAM	
			ART UNIT	PAPER NUMBER
			1775	
DATE MAILED: 04/13/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/699,145	Applicant(s) ENGUCHI, YASUSHI	
	Examiner Abraham Bahta	Art Unit 1775	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 October 2003.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

The specification and claims are not in proper idiomatic English and replete with terms, which are not clear, concise and exact. It is the Examiner's position that the specification is an inadequate translation. The applicant is requested to review and revise the specification. Any amendment to the specification and claims filed must be accompanied by a statement that it contains no new matter.

Examples of some unclear, inexact or verbose terms used in the specification are: page 2, line 3, "preferably capable of the elastic deformation", line 7 "can be capable of the elastic deformation"; page 2, lines 11 and 13 "A fragrance container in the above"; page 3, line 6, "A fragrance container in this invention can comprises"; page 3, lines 13-14 and page 10, lines 12-13 "A sealing cap in the fragrance container as mention above can double as a connecting part"; page 6, line 8 "The present invention can apply not only to straps in the above"; page 7, line 24, "by backing of Cap member"; page 8, line 8-9 "and the both".

The applicant is requested to review the specification for similar errors.

### ***Claim Objections***

Claims 1-13 are unclear as written for reason states above. The applicant is requested to review and amend the claims to be in proper idiomatic English. Claims 9-13 are particularly confusing.

***Claim Rejections - 35 USC § 112***

Claims 1-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, recites "pores that approximately hold aromatic substance"; however, it is not clear how the pores can approximately hold the substance.

Claims 2-3 and 12, recite, "further comprising said fragrance container"; however, inclusion of "further" renders the claim confusing. Is there more than one fragrance container?

In claim 3, line 15 it is not clear what is meant by the phrase "approximately closed at steady base".

Claim 7 is not clear. It is not clear how the fragrance ornament comprises articles listed in the claim.

Claim 9, 11-13 are not clear.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Spector (USP 4,535,935) or Schuehrer et al (USP 6,705,541).

Spector '935 teaches a sachet having a decorative appearance comprising a squeezable bottle comprising a core, which is impregnated with liquid fragrance and a sleeve having pores in which the resultant vapor of the fragrance passes into the atmosphere through the pores of the fabric sleeve. See col. 3, lines 29-64.

Schuehrer '541 teaches a fragrance dispenser or package comprising porous element impregnated with an aromatic carrier substance, which may be compressed to release or emit the fragrance. See col. 3, lines 20-46.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-3 and 5-13 are rejected under 35 USC 103(a) as being unpatentable over Spector 935 or Schuehrer et al '541).

As discussed above, Spector and Schuehrer teach the concept of releasing fragrance vapor through pores of a material. The references do not specifically mention the relative diameter of the pores to that of the aromatic substance; however, since the release rate is a function of the thickness, porosity and the concentration gradient of the active aromatic compound, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the fragrance releasing material by changing the size of the pores depending on the release or diffusion rate desired.

Claim 4: Spector teaches the material that contains the fragrance may be decorative and may assume any desired shape. See col. 3, lines 5-64 and col. 4, lines 38-41.

Claim 5: Spector teaches the material that contains the fragrance may assume any desired shape. Thus, since the fragrance material is flexible, the material is capable of connecting ornamental bodies.

Claim 6: Spector teaches the sachet may be a snake-like form and may be knotted or coiled about a rod or a post.

Claim 7: The references do not specifically mention the fragrance containing material may comprise the articles listed in claim 7; however, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the fragrance containing material by changing its shape and size so that the material may be part of the desired article such as articles listed in claim 7.

Claims 8 and 10: Spector teaches the fragrance containing material may be injected with liquid fragrance. See col. 3, line 65 through col. 4, line 10.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Abraham Bahta whose telephone number is (571) 272-1352. The examiner can normally be reached on Monday - Friday; 11:30 am - 8:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Deborah Jones can be reached on (571) 272-1535. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 1775

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



A. Bahta

04/01/04



DEBORAH JONES

SUPERVISORY PATENT EXAMINER